63. No person who has been arrested by a police-officer sha be discharged except on his own bond, or on bail, or under the special order of a Magistrate.

63. No person who has been arrested by a police-officer shall be discharged except on his own bond, or on bail, or under the [1][*special order of a Magistrate having jurisdiction*]. Discharge of person apprehended.

64. When any offence is committed in the presence of a Magistrate within the local limits of his jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody. Offence committed in Magistrate's presence.

65. Any Magistrate may at any time arrest or direct the arrest, in his presence, within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant. Arrest by or in presence of Magistrate.

66. If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place in [2][India]. Power, on escape, to pursue and retake.

67. The provisions of sections 47, 48 and 49 shall apply to arrest under section 66 although the person making any such arrest is not acting under a warrant and is not a police-officer having authority to arrest. Provisions of sections 47 48 and 49 to apply to arrests under section 66.

CHAPTER VI.

OF PROCESSES TO COMPEL APPEARANCE.

A.—Summons.

68. (*1*) Every summons issued by a Court under this Code shall be in writing in duplicate, signed and sealed by the presiding officer of such Court, or by such other officer as the High Court may, from time to time, by rule direct. Form of summons.

(*2*) Such summons shall be served by a police-officer, or subject to such rules as the [3][[4][State] Government] may prescribe in this behalf, by an officer of the Court issuing it or other public servant. Summons by whom served.

(*3*) This section applies also to the police in the towns of Calcutta and Bombay.

69. (*1*) The summons shall, if practicable, be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons. Summons how served.

(*2*) Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate. Signature of receipt for summons.

(*3*) Service of a summons on an incorporated company or other body corporate may be effected by serving it on the secretary, local manager or other principal officer of the corporation or by registered post letter addressed to the chief officer of the corporation in [2][India]. In such case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

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[1] Substituted by Bom. 23 of 1951, s. 2 and Sch. Part I, for "special order of a Magistrate".

[2] The words "British India" have successively been substituted by the A. O. 1948, A. O. 1950 and Act 1 of 1951 to read as above.

[3] Substituted by the A. O. 1937 for "L. G.".

[4] Substituted by the A. O. 1950 for "Provincial".

Service when person summoned cannot be found.

70. Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family, or, in a presidency-town, with his servant residing with him; and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Procedure when service cannot be effected as before provided.

71. If service in the manner mentioned in sections 69 and 70 cannot by the exercise of due diligence be effected, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the summons shall be deemed to have been duly served.

Service on servant of Government or of Railway Company.

72. (*1*) Where the person summoned is in the active service of the [1][Government] or of a Railway Company, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in manner provided by section 69, and shall return it to the Court under his signature with the endrosement required by that section.

(*2*) Such signature shall be evidence of due service.

Service of summons outside local limits.

73. When a Court desires that a summons issued by it shall be served at any place outside the local limits of its jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within the local limits of whose jurisdiction the person summoned resides or is, to be there served.

Proof of service in such cases and when serving officer not present.

74. (*1*) When a summons issued by a Court is served outside the local limits of its jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed (in manner provided by section 69 or section 70) by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

(*2*) The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

B.—Warrant of Arrest.

Form of warrant of arrest.

75. (*1*) Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer, or in the case of a Bench of Magistrates, by any member of such Bench; and shall bear the seal of the Court.

Continuance of warrant of arrest.

(*2*) Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.

Court may direct security to be taken.

76. (*1*) Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant, that, if such person executes a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

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[1] Substituted by the A. O. 1950 for "Crown".

(2) The endorsement shall state—

(a) the number of sureties;

(b) the amount in which they and the person for whose arrest the warrant is issued, are to be respectively bound; and

(c) the time at which he is to attend before the Court.

Recognizance to be forwarded.

(3) Whenever security is taken under this section the officer to whom the warrant is directed shall forward the bond to the Court.

Warrants to whom directed.

77. (1) A warrant of arrest shall ordinarily be directed to one or more police-officers, and, when issued by a Presidency Magistrate, shall always be so directed; but any other Court issuing such a warrant may, if its immediate execution is necessary and no police-officer is immediately available, direct it to any other person or persons; and such person or persons shall execute the same.

Warrants to several persons.

(2) When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more of them.

Warrant may be directed to landholders, etc.

78. (1) A District Magistrate or Sub-divisional Magistrate may direct a warrant to any landholder, farmer or manager of land within his district or sub-division for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit.

Warrant may be directed to landholders, etc.

78. (1) A District Magistrate or Sub-divisional Magistrate [1][*or Magistrate of the first class*] may direct a warrant to any landholder, farmer or manager of land within his district or sub-division for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence and who has eluded pursuit.

(2) Such landholder, farmer or manager shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued, is in, or enters on, his land or farm, or the land under his charge.

(3) When the person against whom such warrant is issued is arrested, he shall be made over with the warrant to the nearest police-officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 76.

Warrant directed to police-officer.

79. A warrant directed to any police-officer may also be executed by any other police-officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

Notification of substance of warrant.

80. The police-officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant.

Person arrested to be brought before Court without delay.

81. The police-officer or other person executing a warrant of arrest shall (subject to the provisions of section 76 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person.

Where warrant may be executed.

82. A warrant of arrest may be executed at any place in [2][India].

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[1] Inserted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

[2] The words "British India" have successively been substituted by the A. O. 1948, A. O. 1950 and Act 1 of 1951 to read as above.

Warrant forwarded for execution outside jurisdiction.

83. (*1*) When a warrant is to be executed outside the local limits of the jurisdiction of the Court issuing the same, such Court may, instead of directing such warrant to a police-officer, forward the same by post or otherwise to any Magistrate or District Superintendent of Police or the Commissioner of Police in a presidency-town within the local limits of whose jurisdiction it is to be executed.

[1](*2*) The Magistrate or District Superintendent or Commissioner to whom such warrant is so forwarded shall endorse his name thereon and, if practicable, cause it to be executed in manner hereinbefore provided within the local limits of his jurisdiction.

Warrant directed to Police-officer for execution outside jurisdiction.

84. (*1*) When a warrant directed to a police-officer is to be executed beyond the local limits of the jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to a Magistrate or to a police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed.

(*2*) Such Magistrate or police-officer shall endorse his name thereon and such endorsement shall be sufficient authority to the police-officer to whom the warrant is directed to execute the same within such limits, and the local police shall, if so required, assist such officer in executing such warrant.

(*3*) Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or police-officer within the local limits of whose jurisdiction the warrant is to be executed, will prevent such execution, the police-officer to whom it is directed may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Court which issued it.

(*4*) This section applies also to the police in the towns of Calcutta and Bombay.

(*4*) This section applies also to the police in the town[2]* of Calcutta [2]*.

Procedure on arrest of person against whom warrant issued.

[3]**85.** When a warrant of arrest is executed outside the district in which it was issued, the person arrested shall, unless the Court which issued the warrant is within twenty miles of the place of arrest or is nearer than the Magistrate or District Superintendent of Police or the Commissioner of Police in a presidency-town within the local limits of whose jurisdiction the arrest was made, or unless security is taken under section 76, be taken before such Magistrate or Commissioner or District Superintendent.

Procedure by Magistrate before whom person arrested is brought.

[3]**86.** (*1*) Such Magistrate or District Superintendent or Commissioner shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to such Court:

Provided that, if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate, District Superintendent or Commissioner, or a direction has been endorsed under section 76 on the warrant and such person is ready and willing to give the security required by such direction, the Magistrate, District Superintendent or Commissioner shall take such bail or security as the case may be, and forward the bond to the Court which issued the warrant.

(*2*) Nothing in this section shall be deemed to prevent a police-officer from taking security under section 76.

C.—Proclamation and Attachment.

Proclamation for person absconding

87. (*1*) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may

[1] This sub-section, so far as it applies to the police in the Town of Bombay, rep. by the City of Bombay Police Act, 1902 (Bom. 4 of 1902), s. 2 (*1*) and Sch. A.

[2] The letter "s" and the words "and Bombay" rep., *ibid.*

[3] Ss. 85 and 86, so far as they apply to the police in the Town of Bombay, rep., *ibid.*

publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

(2) The proclamation shall be published as follows :—

(a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides ;

(b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village ; and

(c) a copy thereof shall be affixed to some conspicuous part of the Court-house.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

Attachment of property of person absconding.

88. (1) The Court issuing a proclamation under section 87 may at any time order the attachment of any property, moveable or immoveable, or both, belonging to the proclaimed person.

(2) Such order shall authorize the attachment of any property belonging to such person within the district in which it is made ; and it shall authorize the attachment of any property belonging to such person without such district when endorsed by the District Magistrate or Chief Presidency Magistrate within whose district such property is situate.

(3) If the property ordered to be attached is a debt or other moveable property, the attachment under this section shall be made—

(a) by seizure ; or

(b) by the appointment of a receiver ; or

(c) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf ; or

(d) by all or any two of such methods, as the Court thinks fit.

(4) If the property ordered to be attached is immoveable, the attachment under this section shall, in the case of land paying revenue to [1][the [2][State] Government], be made through the Collector of the district in which the land is situate, and in all other cases—

(e) by taking possession ; or

(f) by the appointment of a receiver ; or

(g) by an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person or to any one on his behalf ; or

(h) by all or any two of such methods, as the Court thinks fit.

(5) If the property ordered to be attached consists of live-stock or is of a perishable nature, the Court may, if it thinks it expedient, order immediate sale thereof, and in such case the proceeds of the sale shall abide the order of the Court.

(6) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under Chapter XXXVI of the Code of Civil Procedure[3].

XIV of 1882.

[1] Substituted by the A. O. 1937 for "Govt.".

[2] Substituted by the A. O. 1950 for "Provincial".

[3] *See* now the Code of Civil Procedure, 1908 (5 of 1908).

[1][(*6A*) If any claim is preferred to, or objection made to the attachment of, any property attached under this section within six months from the date of such attachment, by any person other than the proclaimed person, on the ground that the claimant or objector has an interest in such property, and that such interest is not liable to attachment under this section, the claim or objection shall be inquired into, and may be allowed or disallowed in whole or in part :

Provided that any claim preferred or objection made within the period allowed by this sub-section may, in the event of the death of the claimant or objector, be continued by his legal representative.

(*6B*) Claims or objections under sub-section (*6A*) may be preferred or made in the Court by which the order of attachment is issued or, if the claim or objection is in respect of property attached under an order endorsed by a District Magistrate or Chief Presidency Magistrate in accordance with the provisions of sub-section (*2*), in the Court of such Magistrate.

(*6C*) Every such claim or objection shall be inquired into by the Court in which it is preferred or made :

Provided that, if it is preferred or made in the Court of a District Magistrate or Chief Presidency Magistrate, such Magistrate may make it over for disposal to any Magistrate of the first or second class or to any Presidency Magistrate, as the case may be subordinate to him.

(*6C*) Every such claim or objection shall be inquired into by the Court in which it is preferred or made :

Provided that, if it is preferred or made in the Court of a District Magistrate or Chief Presidency Magistrate, such Magistrate may make it over for disposal to any Magistrate [2]* * * * * * subordinate to him.

(*6D*) Any person whose claim or objection has been disallowed in whole or in part by an order under sub-section (*6A*) may, within a period of one year from the date of such order, institute a suit to establish the right which he claims in respect of the property in dispute ; but subject to the result of such suit, if any, the order shall be conclusive.

(*6E*) If the proclaimed person appears within the time specified in the proclamation, the Court shall make an order releasing the property from the attachment.]

(*7*) If the proclaimed person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of [3][the [4][State] Government], but it shall not be sold until the expiration of six months from the date of the attachment [5][and until any claim preferred or objection made under sub-section (*6A*) has been disposed of under that sub-section], unless it is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner ; in either of which cases the Court may cause it to be sold whenever it thinks fit.

Restoration of attached property.

89. If, within two years from the date of the attachment any person whose property is or has been at the disposal of [3][the [4][State] Government], under sub-section (*7*) of section 88, appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, or the Court to which such

[1] Sub-sections (*6A*) to (*6E*) ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 13.

[2] The words "of the first or second class or to any Presidency Magistrate, as the case may be," were deleted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

[3] Substituted by the A. O. 1937 for "Govt.".

[4] Substituted by the A. O. 1950 for "Provincial".

[5] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 13.

Court is subordinate, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or, if the same has been sold, the nett proceeds of the sale, or, if part only thereof has been sold, the nett proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

D.—Other Rules regarding Processes.

Issue of warrant in lieu of, or in addition to summons.

90. A Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person other than a juror[1]* * issue, after recording its reasons in writing, a warrant for his arrest—

(*a*) if, either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons; or

(*b*) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

Power to take bond for appearance.

91. When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant, is present in such Court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such Court.

Arrest on breach of bond for appearance.

92. When any person who is bound by any bond taken under this Code to appear before a Court, does not so appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him.

Provisions of this Chapter generally applicable to summonses and warrants of arrest.

93. The provisions contained in this Chapter relating to a summons and warrant, and their issue, service and execution, shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code.

[2][*E.—Special Rules regarding Processes in certain cases.*

Special rules regarding processes in certain cases.

93A. (*1*) In this section, the expression "internal court" means any court in the territories to which this Code extends and the expression "external court" means any court established or continued by the authority of the Central Government in exercise of its foreign jurisdiction or any court in the State of Jammu and Kashmir or in the State of Manipur.

(*2*) Where an internal court desires that a summons to, or a warrant for the arrest of, an accused person issued by it shall be executed at any place within the local limits of the jurisdiction of an external court, it may send such summons or warrant, in duplicate, by post or otherwise, to the presiding officer of that court to be served or executed; and where any such summons has been so served, the provisions of section 74 shall apply in relation to such summons as if the presiding officer of the external court to whom it is sent were a magistrate in the territories to which this Code extends.

(*3*) Where an internal court has received for service or execution a summons to, or a warrant for the arrest of, an accused person issued by an external court, it shall cause the same to be served or executed as if it were a summons or warrant received by it from another internal court for service or execution within the local limits of its jurisdiction; and where any such warrant of arrest has been so executed, the person arrested shall, so far as possible, be dealt with in accordance with the procedure prescribed by sections 85 and 86.]

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[1] The words "or assessor" were omitted by Act 26 of 1955, s. 14.

[2] Substituted by Act 1 of 1951, s. 9, for the original Part E consisting of ss. 93A, 93B and 93C.